

REMARKS/ARGUMENTS

The preceding amendments and following remarks are submitted in response to the non-final Office Action mailed January 6, 2004, setting a three-month shortened statutory period for response ending April 6, 2004. Reconsideration, examination and allowance of all pending claims are respectfully requested.

Information Disclosure Statements

In paragraph 1 of the Office Action, the Examiner states that the IDS filed on 3/31/03 and a portion of the IDS filed 6/28/02 (U.S. Patents only) have been considered and placed in the application file. In paragraph 2, however, the Examiner states that the IDS filed on 6/28/02 fails to comply with 37 C.F.R. § 1.98(a)(2), which governs the submission of references in an IDS.

In response to this refusal, Applicants note that copies of all U.S. and foreign references were provided along with the 1449 form for the 6/28/02 IDS, as required under 37 C.F.R. § 1.98(a)(2). Submission of these references is evidenced by the returned postcard receipt stamped by the PTO (copy attached), which clearly indicates that all 259 references cited in the form 1449 were received.

Since copies of all cited references were timely submitted in the 6/28/02 IDS, Applicants respectfully assert that the Examiner is obligated to consider all references in the IDS, pursuant to 37 C.F.R. § 1.97. For the Examiner's convenience, a copy of the references in the Form 1449 is attached.

35 U.S.C. § 112 Rejections

In paragraph 6 of the Office Action, the Examiner rejected claims 1-9, stating that there is insufficient antecedent basis for the limitation "the lumen" contained in line 7. In

response to this rejection, Applicants have amended claim 1 to recite "the annular lumen". In addition, Applicants have amended claim 7, removing the limitation "the lumen" from that claim. With these amendments, Applicants respectfully assert that the rejection of claims 1-9 under 35 U.S.C. § 112 should be withdrawn.

35 U.S.C. § 102 Rejections

In paragraphs 9-10 of the Office Action, the Examiner rejected claims 1-9 under 35 U.S.C. § 102(b) as being anticipated by *Vrba et al.* (U.S. Patent No. 6,059,813), or, alternatively, by *Yurek et al.* (U.S. Patent No. 5,662,703).

Applicants respectfully assert that neither *Vrba et al.* nor *Yurek et al.* anticipate the filter retrieval system recited in claims 1-9. *Vrba et al.* disclose a medical device delivery system (110) including an inner tube 114, a rolling retractable sheath (122) comprising a foldable material, and a retraction device (126) that can be manipulated with a pull collar (127) and pull wire (128). An optional tip (126) mounted about the distal end of the inner tube (114) abuts the retractable sheath (122). In use the retraction device (126) can be manipulated by the operator to unroll the retractable sheath (122), allowing a stent (158) disposed within the retractable sheath (122) to be deployed.

Yurek et al., in turn, disclose a deployment device (16) including an outer catheter (18), a rolling sheath (22) mounted to the distal end (24) of the outer catheter (18), and an inner catheter (28). A distal portion of the rolling membrane (22) is shaped to provide a distally converging tip (26), which overlies the inner catheter (28). In use, the sheath (22) can be rolled by moving the outer catheter (18) relative to the inner catheter (28), allowing a stent (56) disposed within the sheath (22) to be deployed.

Movement of the outer catheter (18) relative to the inner catheter (28) is accomplished by hand manipulation using a valve (34) equipped with a hub (44).

In contrast, claim 1 of the present Application recites:

1. A filter retrieval catheter, comprising:
an inner tube having a proximal end, a distal end, and an inner lumen extending therethrough;
an outer tube disposed over the inner tube, the outer tube including a proximal end and a distal end, wherein an annular lumen is defined between the inner tube and the outer tube; and
a tip member slidably disposed in the annular lumen for movement between a first position and a second position.

As can be seen above, claim 1 recites a filter retrieval catheter including, *inter alia*, a tip member slidably disposed within an annular lumen for movement between a first position and a second position. In contrast to claim 1, neither the *Vrba et al.* reference nor the *Yurek et al.* reference disclose or suggest a tip member slidably disposed within an annular lumen. In *Vrba et al.*, the optional tip (126) mounted about the distal end of the inner tube (114) remains stationary during actuation of the device, and is therefore not slidably disposed within an annular lumen. Similarly, the only tip member disclosed in *Yurek et al.* appears to be the distally converging tip (26) at the distal portion of the rolling membrane (22), which is clearly not slidably disposed within an annular lumen. Since neither *Vrba et al.* nor *Yurek et al.* disclose or suggest this limitation, Applicants respectfully assert that claim 1 is not anticipated under 35 U.S.C. § 102(b).

With respect to the rejection of claim 7, Applicants have amended that claim to now recite:

7. A filter retrieval catheter, comprising:
an inner tube having a proximal end, a distal end, and an inner lumen extending therethrough;

an outer tube disposed over the inner tube, the outer tube including a proximal end and a distal end; wherein an annular lumen is defined between the inner tube and the outer tube; and

a tip member including a rolling member in fluid communication with the annular lumen, *the rolling member adapted and configured to transition between a first position and a second position by a change in fluidic pressure within the annular lumen.*

As can be seen above, claim 7 now recites that the rolling member is adapted and configured to transition between a first position and a second position by a change in fluidic pressure within the annular lumen. As discussed *supra*, movement of the rolling retractable sheath (122) in *Vrba et al.* is accomplished by moving the retrieval device (26) proximally using a pull collar (127) and pull wire (128), not by a change in fluidic pressure within the annular lumen. In a similar manner, movement of the sheath (22) in *Yurek et al.* is accomplished by moving the outer catheter (18) relative to the inner catheter (28) by hand manipulation using a valve (34) and hub (44). While *Yurek et al.* does disclose the presence of fluid within the lumen (20), nothing in that reference suggests transitioning a rolling member between a first position and a second position by a change in fluidic pressure within an annular lumen. As such, Applicants respectfully assert that claim 7 is now in condition for allowance.

Because claims 1 and 7 are allowable, Applicants respectfully assert that dependent claims 2-6 and 8-10 are also allowable for the reasons stated above, and since they add other significant elements to distinguish them from the cited prior art.

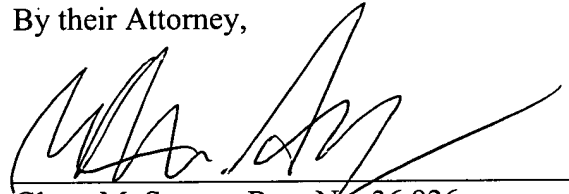
In view of the foregoing, Applicants respectfully assert that all pending claims are in condition for allowance. Reexamination and reconsideration are respectfully requested. If the Examiner would like to discuss the Application or its examination, please call the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Euteneuer et al.

By their Attorney,

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Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue
Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050